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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,258	01/07/2002	Joachim Charzinski	P01,0563	8900

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225 Franklin Street
Boston, MA 02110-2804

10/06/2005

EXAMINER

HALIYUR, VENKATESH N

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/030,258	Applicant(s) CHARZINSKI, JOACHIM	
	Examiner Venkatesh Haliyur	Art Unit 2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/07/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1 page</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Amended claims 1-6 have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones & Barnett (Jones et al) [UK Patent Document: GB 2299914A] in view of Ohba et al [US Pat 6,501,760].

Regarding claim 1, Jones et al disclosed in their invention of "Data network switch with fault tolerance" a method for the switchover mechanism determined by the traffic class (prioritization information) in the event of a link failure in a dual redundant mode ATM data network [From page 2, line 10 to page 5, line 7], but fails to disclose a switchover mechanism for IP data networks determined by the prioritization information.

However, Ohba et al disclosed in their invention of "Node device and packet transfer method using priority information in plural hierarchical levels" a switchover mechanism for IP data packet transmission based on the determination of the IP data packet priority information [Fig 3, column 5, lines 16-42].

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Therefore it would have been obvious for one of ordinary skill in the art to use the teachings of Ohba et al to include switchover mechanism for IP data packet transmission priority based on the packet priority information in the system of Jones et al to switchover to redundant transmission link (or facility) while conducting a packet determined by the prioritization information when there is a disturbance of the active transmission link (or facility).

Regarding claim 2, Jones et al disclosed the traffic class priority for an ATM network [page 3, lines 21-25], but Jones et al fails to disclose the prioritization information for an IP network. However, Ohba et al disclosed the priority information included in the TOS field of the IP packet header [Fig 16 & 17, column 21, lines 20 to 38].

Therefore it would have been obvious for one of ordinary skill in the art to use the teachings of Ohba et al to include the method of priority information in TOS field in the system of Jones et al to define prioritization information in TOS field of the IP packet header for differentiated services concept.

Regarding claim 3, Jones et al disclosed different classes of cell traffic might be assigned preference paths based on low or high priority for packets in ATM network [page 3, lines 16-27 and page 4, lines 1-5], but Jones et al fails to disclose low or high priority information for IP packets. However, Ohba et al disclosed a method where IP packets priority information is written either as low or high priority in TOS field in the IP packet header [column 4, lines 65-67, column 5, lines 1-15].

Therefore it would have been obvious for one of ordinary skill in the art to use the teachings of Ohba et al to include the method of low or high prioritization of packets in the system of Jones et al to transmit packets with lower priority via the redundant transmission link (or facility).

Regarding claim 4, Jones et al disclosed switchover to redundant path and dropping of packets [page 4, lines 5-13], but Jones et al fails to disclose discarding of packets with a lower priority. However, Ohba et al disclosed a method to discard low priority packet in order to shorten the delay for high priority packets [column 5, lines 16-30].

Therefore it would have been obvious for one of ordinary skill in the art to use the teachings of Ohba et al to include the method of discarding low priority packets in the system of Jones et al while switching over to standby case.

Regarding claim 5, Jones et al disclosed a mechanism to achieve increasing capacity by way of additional packet processors [page 2, lines 22-27 and page 3, lines 1-3]. But Jones et al fails to disclose changing the prioritization based on a capacity utilization determination. However, Ohba et al disclosed changing of the priority based on a capacity utilization of the communication resources [column 8, lines 11-51].

Therefore it would have been obvious for one of ordinary skill in the art to use the teachings of Ohba et al to include the method of prioritization based on the determination of communication resources in to the system of Jones et al for changing the prioritization based on a capacity utilization determination of the transmission facility.

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Regarding claim 6, Jones et al disclosed in their dual redundant mode ATM switch fabric, data links connected to two separate switch fabrics [Fig. 1, page 2, lines 10-21] but fails to disclose it for an IP network. However, Ohba et al disclosed a transmission facility for priority switching for IP network links connected as junction as shown in Fig 15 [items R1, B3, B4 of Fig. 15].

Therefore it would have been obvious for one of ordinary skill in the art to use the teachings of Ohba et al to include priority switching for IP network junction in the system of Jones et al for transmission facility and redundant transmission facility constructed as junction lines.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art in reference here are Jones & Barnett (Jones et al) and Ohba et al.

4. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616. The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached @ (571)-272-3134.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

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5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).


Ajit Patel
Primary Examiner